

50501. Income -General.

(a) Income includes benefits in cash or in kind from:

(1) Labor.

(2) Services provided.

(3) Business activities.

(4) Returns from real or personal property.

(5) Contributions.

(6) Other similar sources.

(b) Income from sources listed in (a) shall be considered as income only if it is currently available in accordance with Sections 50513 through 50517.

(c) Income from sources listed in (a) shall be divided into three types:

(1) Gross earned income as described in Section 50503.

(2) Gross unearned income as described in Section 50507.

(3) Income in kind as described in Section 50509.

50503. Gross Earned Income.

(a) Gross earned income includes:

(1) Wages, including amounts designated for meals provided by an employer or business enterprise, salaries, bonuses and commissions from an employer or business enterprise.

(2) Net profits from self-employment as determined in accordance with Section 50505.

(3) Earnings under Title 1 of the Elementary and Secondary Education Act.

(4) Payments under the Job Training Partnership Act (JTPA). Payments which are identified by the local JTPA office as an incentive payment or training allowance shall be considered as gross unearned income.

(5) Payments under the Economic Opportunity Act.

(6) Training incentive payments and work allowances under ongoing manpower programs other than WIN or JTPA.

(7) Income received for having provided IHSS services.

(8) Net income from real or personal property as determined in accordance with Section 50508 which is the result of continuous and appreciable effort on the part of the applicant or beneficiary. This includes income from:

(A) Room and board.

(B) The rental of rooms which requires daily effort on the part of the beneficiary.

(C) A business enterprise.

(D) The sale of produce, livestock, poultry, dairy products and other similar items.

(9) Earnings from public service employment.

(10) Actual Earned Income Tax Credit (EITC) payment received for taxable year 1980 and thereafter whether received as a tax refund or received as an advance payment.

(11) Tips actually received for the performance of work activities, notwithstanding the amount calculated by the employer for tax withholding purposes.

(12) For purposes of applying Sections 50543, 50553.1, 50553.3, and 50553.5 of Title 22 of the California Code of Regulations to AFDC-MN or MI persons, Temporary Workers Compensation payments which are (i) employer funded, (ii) made to an individual who remains employed during recuperation from a temporary illness or injury pending his/her return to the job, and (iii) are specifically characterized under State law as temporary wage replacements.

(13) For purposes of applying Sections 50543, 50553.1, 50553.3, and 50553.5 of Title 22 of the California Code of Regulations to AFDC-MN or MI persons, State Disability Insurance payments.

U.S. District Court, EDCA, No. CIV S-94-0228 GEB JFM; and Tinoco v. Belsh

U.S. District Court, NDCA, No. C94 0947 WHO. Reference: Sections 14005.4, 14005.7 and 14005.8, Welfare and Institutions Code.

50505. Net Profit from Self-Employment.

(a) The net profit from self-employment shall be an estimation of the annual net income for the current year based on the federal tax return filed for the previous year as limited by (c).

(b) If there is no tax return for the previous year or there is evidence that using the tax return would give an inaccurate estimation of income, the county department shall use current business records. In this circumstance, net profit shall be determined in accordance with (d) and (e).

(c) The following expenses, when used to determine annual net income on the federal tax return, shall not be deducted:

(1) Entertainment costs.

(2) Depreciation.

(3) Purchase of capital equipment expenditures.

(4) Payments on the principal of loans for capital assets or durable goods.

(d) Net profit of a self-employed person shall be determined by subtracting from the gross business income, expenses which are directly related to the production of goods or services, and without which the goods or services could not be produced. Such expenses include, but are not limited to:

(1) Transportation costs to call upon customers or deliver goods.

(2) Payments of the interest of loans for capital assets or durable goods.

(3) Payments for rental of space or equipment.

(4) Wages and other benefits paid to employees.

(5) Material and supply costs.

(6) Maintenance and repair costs.

(e) Personal expenses such as income tax payments, lunches and transportation to and from work are not classified as business expenses and shall not be deducted.

50507. Gross Unearned Income.

(a) Gross unearned income includes:

(1) Old age, survivors and disability insurance payments from the Social Security Administration (OASDI).

(2) Annuities, which are sums paid yearly or at other specific intervals in return for payment of a fixed sum by the annuitant.

(3) Pensions.

(4) Retirement payments.

(5) Disability payments except for the State Disability Insurance benefits considered to be earned income under Section 50503(a)(13) of this Title.

(6) Veterans payments which include:

(A) Pensions based on need.

(B) Compensation payments.

(C) Educational assistance.

(7) Workers' Compensation payments, except for any amount determined to be unavailable in accordance with Section 50515, and except for Temporary Workers Compensation payments considered to be earned income under Section 50503(a)(12) of this Title.

(8) Railroad Retirement and any other payments made by the Railroad Retirement Board.

(9) Unemployment Insurance Benefits.

(10) Proceeds from a life insurance policy which are in excess of the lesser of:

(A) \$1,500.

(B) The amount expended on the insured person's last illness and burial expenses.

(11) Other insurance payments.

(12) Loans which do not require repayment.

(13) Gifts.

(14) Non-exempt child/spousal support, whether provided voluntarily or by court order.

(15) Inheritances which are in the form of cash, securities or other liquid assets.

(16) Contributions from any source.

(17) Prizes and awards.

(18) Net income from the rental of real or personal property which is not considered gross earned income in accordance with Section 50503(a)(8).

(19) Dividends.

(20) Interest payments from any source, including trust, trust deeds and contracts of sale.

(21) Royalties, including but not limited to payments to a holder of a patent or copyright, for the use of the invention, or to the owner of a mine, oil well or similar holdings, for the extraction of the product or other use.

(22) Income of a PA or Other PA recipient which is not used to determine the recipient's eligibility.

(23) Incentive payments or training allowances under JTPA.

(24) Any other income which is available to meet current needs in accordance with Section 50513.

(25) Any of the items specified in (10) through (24) if received in a lump sum payment.

U.S. District Court, EDCA, No. CIV S-94-0228 GEB JFM; and Tinoco v. Belsh

U.S. District Court, NDCA, No. C94 0947 WHO. Reference: Sections 14005.4, 14005.7 and 14005.8, Welfare and Institutions Code. Reference: Sections 14005.4, 14005.7, 14005.8 and 14006, Welfare and Institutions Code.

50508. Net Income from Property.

(a) Net income from property shall be considered in determining share of cost and shall be computed as follows:

(1) If the income is from the rental of real property, subtract the following expenses, as limited by (b), from the gross income:

(A) Taxes and assessments.

(B) Interest on encumbrance payments. The principal portion of the payments shall not be deducted.

(C) Insurance.

(D) Utilities.

(E) Upkeep and repairs. The amount of this item shall be the greater of the following:

1. The actual amount expended for upkeep and repairs during the month.

2. Fifteen percent of the gross monthly rental plus \$4.17 per month.

(2) In determining whether utilization requirements are met in accordance with Section 50416 (a) (1) only the amount specified in (a) (1) (E) 1. shall be deducted rather than the amount specified in (a) (1) (E) 2.

(3) If the income is from the rental of rooms, or the provision of board and room or board and care, which does not require a business license, the net income shall be 10 percent of the gross amount received.

(4) If the income is from the provision of board and room or board and care which requires a business license, or from self-employment, the net income is the net profit from self-employment as determined in accordance with Section 50505.

(5) If the income is from a deed of trust or a mortgage, the net income is the amount specified in Section 50441 (c).

(6) If the income is from property in which the person holds a life estate, the net income is the amount actually received.

(7) If the income is from personal property, the net income is the amount actually received.

(b) If the income is from the rental of unit(s) of a multiple unit dwelling or other dwellings on property that is exempt as the principal residence and the applicant or beneficiary is living in a portion of the property, the expenses specified in (a) which are common to the property as a whole shall be prorated as follows:

(1) Determine the number of rooms in the building. If there is more than one building, determine the number of rooms in all of the buildings together. For the purpose of this section, rooms include any room other than the following:

(A) Bathroom.

(B) Hallway.

(C) Closet.

(D) Unfinished basement, loft or attic.

(2) Determine the number of rooms which are producing the rental income.

(3) Based upon the number of rooms, determine the percentage of the property which is producing the rental income.

(4) Apply the percentage determined in accordance with (3) to the expenses specified in (a) which are common to the property as a whole. This is the amount which shall be subtracted from the gross income.

50509. Income in Kind.

(a) Income in kind is any support or maintenance received in kind from a person other than a responsible relative for:

(1) Housing.

(2) Utilities.

(3) Food.

(4) Clothing.

(b) Income in kind shall be considered as income only if the entire item of need is provided.

(c) The value of free board and lodging received during a temporary absence from the home shall be considered as follows:

(1) If the absence is for one month or less, the income in kind value shall not be considered income.

(2) If the absence is for more than one month, the income in kind value shall be considered income to the extent that it exceeds the actual costs of maintaining the home to which the beneficiary will return.

(d) Income in kind which is received as earned income shall be subject to earned income exemptions and deductions.

(e) Income in kind which is received as unearned income shall be subject to unearned income exemptions and deductions.

(f) Income in kind from a parent shall not be considered in determining the eligibility of a child when any of the following conditions exists:

(1) The child's application is being processed for minor consent services in accordance with Section 50147.1(a)(3)(D).

(2) The child is an unmarried minor parent and the share of cost is being determined for the MFBU that includes the child's children.

(3) The child is an unborn, except that if the mother is receiving income in kind, there is income in kind to the unborn.

50511. Value of Income in Kind.

(a) The value of the income in kind for the items specified in Section 50509 (a) shall be the lesser of the following:

(1) The actual cost or net market value of the item, or

(2) The income in kind amounts effective July 1, 1981 for housing, utilities (including telephone), food and clothing specified in (d) as adjusted for any increases or decreases in the cost of living specified in (b).

(b) Individual income in kind amounts shall be adjusted by the same percentage increase or decrease that is applied to the AFDC Maximum Aid Payment levels pursuant to Section 11453 Welfare and Institutions Code. Such adjustments shall be effective at the same time as adjustments to the AFDC payment levels become effective as specified in Section 11453, Welfare and Institutions Code.

(c) If one of the items listed in 50509(a) is shared with persons who are not included in the MFBU and who are not responsible for members of the MFBU, the income in kind value to the members of the MFBU shall be the lesser of:

(1) Their share of the net market value or actual cost of the item.

(2) The value determined in accordance with (a) (2).

(d) The income in kind amounts effective July 1, 1981 are as follows:

- | | |
|-------------------------------------|------------------|
| (1) Housing. | |
| (A) One person MFBU..... | \$111 per month. |
| (B) Two person MFBU..... | \$150 per month. |
| (C) Three person MFBU..... | \$163 per month. |
| (1) Housing. | |
| (A) One person MFBU..... | \$111 per month. |
| (B) Two person MFBU..... | \$150 per month. |
| (C) Three person MFBU..... | \$163 per month. |
| (D) Four person or larger MFBU..... | \$173 per month. |
| (2) Utilities, including telephone. | |
| (A) One person MFBU..... | \$25 per month. |
| (B) Two person MFBU..... | \$26 per month. |
| (C) Three person MFBU..... | \$28 per month. |
| (D) Four person or larger MFBU..... | \$29 per month. |
| (3) Food. | |
| (A) One person MFBU..... | \$62 per month. |
| (B) Two person MFBU..... | \$133 per month. |

(C) Three person MFBU.....	\$169 per month.
(D) Four person MFBU.....	\$209 per month.
(E) Five person MFBU.....	\$252 per month.
(F) Six person MFBU.....	\$293 per month.
(G) Seven person MFBU.....	\$327 per month.
(H) Eight person MFBU.....	\$358 per month.
(I) Nine person MFBU.....	\$391 per month.
(J) Ten person or larger MFBU.....	\$424 per month.
(4) Clothing.	
(A) One person MFBU.....	\$20 per month.
(B) Two person MFBU.....	\$37 per month.
(C) Three person MFBU.....	\$56 per month.
(D) Four person MFBU.....	\$74 per month.
(E) Five person MFBU.....	92 per month.
(F) Six person MFBU.....	\$110 per month.
(G) Seven person MFBU.....	\$129 per month.
(H) Eight person MFBU.....	\$144 per month.
(I) Nine person MFBU.....	\$165 per month.
(J) Ten person or larger MFBU.....	\$181 per month.

50512. Ownership of Income.

(a) Except as specified in (b), income is considered to belong to the person who:

- (1) Is named on a negotiable instrument.

- (2) Is given cash.

- (3) Receives the income in kind.

(b) In the case of a married couple it shall be presumed that each spouse has a one-half community property ownership interest in the total monthly gross earned and unearned income of both spouses providing all of the following conditions exist:

- (1) One spouse is in LTC and the other spouse is noninstitutionalized.

- (2) There is no break in marital ties.

- (3) The LTC spouse receives an amount of income which is greater than the amount of income received by the noninstitutionalized spouse.

(c) The community property ownership presumption in (b) shall be rebuttable by either spouse who provides evidence that all or a portion of the total income is owned separately by one spouse.

50513. Availability of Income.

(a) Only income which is actually available to meet the needs of a person or family shall be considered in determining that person's or family's share of cost.

(b) Income shall be considered available in the month it is received unless it is:

(1) To be apportioned over time in accordance with Section 50517.

(2) Unavailable in accordance with Section 50515.

(c) Income is considered to be received on the day it becomes available for use by the person.

50515. Unavailable Income.

(a) Income which is not available to meet current needs of a person or family shall not be considered in determining that person's or family's share of cost. Unavailable income includes, but is not limited to, the following:

(1) That portion of Worker's Compensation and other public or private insurance settlements which is either of the following:

(A) Designated for medical, legal or other such expenses.

(B) Not controlled by the applicant or beneficiary or person acting on his behalf.

(2) That portion of a contribution that is both of the following:

(A) From a person living in the household who has no legal responsibility to support, such as an unrelated adult or an adult child.

(B) Used to meet the actual costs of the contributor's share of the housing, utilities, food and other household costs. If actual costs are unavailable, the amounts specified in Section 50511 shall be used. This shall be the difference between the income-in-kind values for the family size with the person included and excluded.

(3) That portion of the monthly income of a medically needy person residing in a licensed board and care facility which is both of the following:

(A) Paid to the facility for residential care and support.

(B) In excess of the appropriate maintenance need level as determined in accordance with Section 50603.

(4) An advance or a reimbursement from an employer to cover expenses necessary for job performance is unavailable to the extent that the advance or reimbursement does not exceed the actual out-of-pocket costs of the employee.

(b) When a person is in LTC and is in his/her own MFBU in accordance with Section 50377, his/her spouse's share of the community property owned income shall be considered unavailable to the LTC person.

50517. Apportionment of Income over Time.

(a) Income shall be considered available in the month received, unless it is apportioned over time in accordance with the following:

(1) Income earned and received in more than eight but less than twelve months under an annual contract of employment shall be apportioned equally over the period of the contract beginning with the first month of the contract.

(2) Income received more frequently than monthly or semi-monthly shall be converted to monthly income in accordance with (3) if both of the following conditions are met:

(A) The beneficiary wishes to receive Medi-Cal for more than two months.

(B) The beneficiary is to receive the income for a full month.

(3) Income shall be converted to monthly income by the following methods:

(A) Multiply weekly income by 4.33 or $4 \frac{1}{3}$

(B) Multiply income received every two weeks by 2.167 or $2 \frac{1}{6}$

(4) Income received less frequently than monthly shall be converted to monthly income by the following methods.

(A) Divide quarterly income by three.

(B) Divide income received every two months by two.

(5) Income from self-employment, as determined in accordance with Section 50505, shall be determined on an annual basis and apportioned monthly.

(6) Loans which do not require repayment and are not exempt in accordance with Section 50533, and which specify that they are to cover a certain period of time shall be apportioned over that period of time.

(7) Interest income from a deed of trust or contract of sale shall be determined on an annual basis and apportioned monthly.

(8) Interest income which is received less frequently than monthly and is not exempt as specified in Section 50542 shall be apportioned as follows:

(A) Determine the number of months of the period during which the interest accrued.

(B) Divide the interest income by the number of months in the interest period.

(C) Consider the amount determined in (B) as income in each of the months of the next interest period.

50517.1. Apportionment of Income Exemptions and Deductions.

(a) Income exemptions and deductions shall be apportioned over time using the procedures for apportioning income over time.

50518. Fluctuating Income.

(a) Fluctuating income shall be determined by estimating the amount to be received in the month unless the conditions of (b) are met. This estimate shall be made considering all of the following:

(1) The income pattern over the last year.

(2) The actual income received in the last month.

(3) The beneficiary's statement of anticipated income.

(b) Actual income shall be used if it is known at the time the share of cost determination is being made. In no instance shall the share of cost determination be delayed solely to determine the actual income.

(c) The provisions of this section shall not apply to income from self-employment which shall be determined in accordance with Section 50505 and apportioned in accordance with Section 50517(a)(5).

50519. Income Exemptions and Deductions -General.

(a) Certain items of earned and unearned income shall be exempt from consideration in determining a beneficiary's share of cost. Income which remains after the application of the exemptions specified in Sections 50523 through 50544 shall be nonexempt income.

(b) Certain amounts of income shall be deducted from nonexempt income to determine the net income to be used in determining the share of cost. Income which remains after the application of the deductions specified in Sections 50547 through 50555.2 shall be net nonexempt income.

(c) Exemptions and deductions do not apply uniformly to all MN and MI categories nor to both earned and unearned income. Restrictions are stated where applicable.

50521. Payments Exempt from Consideration as Income.

Income specified in Sections 50523 through 50544 shall be exempt. These exemptions shall apply to all MN and MI persons, unless otherwise specified.

50523. Property Tax Refunds.

Refunds or rebates of taxes on real property shall be exempt.

50523.5. California Franchise Tax Board Payments.

The payments which are exempt property pursuant to Section 50454 .5 shall also be exempt income in the month of receipt.

50524. Child/Spousal Support Received by AFDC-MN and MI Family Members.

50525. Public Assistance and General Relief Grants.

(a) Public assistance cash grants shall be exempt.

(b) In addition to public assistance cash grants, the following cash payments from county agencies are exempt:

(1) Special circumstances payments provided to SSI/SSP recipients pursuant to EAS regulations.

(2) Emergency loans provided to SSI/SSP recipients pursuant to EAS regulations.

(3) General Relief or General Assistance payments.

(4) Cash value of food stamps.

(5) Immediate need payments provided to AFDC recipients pursuant to EAS 40-129.

50526. Work Incentive Program (WIN).

Earnings from public service employment under the WIN program are exempt.

50527. Social Services.

(a) Payments received for social services provided in accordance with Title XX of the Social Security Act shall be exempt, whether provided in kind or as a direct payment to the individual for purchase of designated services. Such services include, but are not limited to:

(1) In-Home Supportive Services.

(2) Child care.

(3) Training and rehabilitation services, including payment for training expenses.

50528. Assistance Based on Need.

(a) Assistance based on need which is furnished by the State or any political jurisdiction thereof, as specified in (b), shall be exempt if the payment is all of the following:

(1) Made regularly on a periodic basis at least once a quarter or made to a specific group or class of individuals in similar circumstances or situations.

(2) Made in cash, which may be currency or any negotiable instrument.

(3) Issued in an amount based on the need of the individual.

(b) Assistance based on need includes payments from the following and similar sources:

(1) Short-Doyle.

(2) Regional centers for the Developmentally Disabled.

(3) Probation departments.

(c) Payments made pursuant to public law, when the law specifically exempts such payment from eligibility and share of cost determinations, shall be considered assistance based on need.

50529. Federal Housing Assistance.

(a) Federal housing assistance in the form of rent subsidies, loans or partial house payments under the U. S. Housing Act of 1937, the National Housing Act, Title V of the Housing Act of 1949 or the Housing and Urban Development Act of 1965 shall be exempt.

50530. Training Expenses.

The allowance for training expenses paid by the Department of Rehabilitation to persons participating in that Department's training programs shall be exempt.

50531. Foster Care Payments.

(a) Payments from any source, received by a foster parent for the care of a foster child, shall be exempt except for:

(1) The portion of the payment designated by the county department for care and supervision, if such a designation is made.

(2) Payments made to a foster parent when a foster child is temporarily absent from the foster home for a month or more.

(3) Payments made to ensure availability of a room or rooms for foster children.

50533. Exempt Loans, Grants, Scholarships and Fellowships.

(a) The following loans, grants, scholarships and fellowships are exempt:

(1) Loans made under Title III of the Federal Economic Opportunity Act, Special Program to Combat Poverty in Rural Areas.

(2) Loans or grants to an undergraduate student for educational purposes made or insured by the Federal Commissioner of Education. These include, but are not limited to:

(A) Supplemental Education Opportunity grants.

(B) National Direct Student loans.

(C) College Work Study.

(D) Basic Educational Opportunity grants.

(E) Federal insured student loans.

(3) Educational loans or grants to undergraduate students when it is verified that they are awarded on the basis of the student's need. These include, but are not limited to:

(A) Extended Opportunity Program loans and grants.

(B) Bureau of Indian Affairs loans and grants.

(C) California State scholarships (Cal Grant A).

(D) College Opportunity grants (Cal Grant B).

(E) Occupational, Educational-Training grants (Cal Grant C).

(4) Funds for readers, or educational scholarships, which are all of the following:

(A) Provided to an aged, blind or disabled person enrolled in a California public school or institution of higher learning.

(B) Awarded by an educational institution.

(C) Not available to meet basic needs.

(5) Other loans, grants, scholarships or fellowships, or portions thereof, to undergraduate or graduate students if the following conditions are met:

(A) The loan, grant, scholarship or fellowship document specifically limits the use of the funds for purposes other than current living costs.

(B) The loan, grant, scholarship or fellowship would not be available if used for any purpose other than the one specified.

50534. Payments to Victims of Crimes -Treatment as Income.

Payments made under the California Victims of Crimes program shall be exempt as income in the month of receipt and thereafter as property in accordance with Section 50448, and shall not be considered to be unconditionally available income pursuant to Section 50186.

50535. Relocation Assistance Benefits.

Relocation assistance benefits shall be exempt if paid by a public agency to a person who has been relocated as a result of a program of area redevelopment, urban renewal, freeway construction, or any other public development involving demolition or condemnation of existing housing.

50535.5. Disaster and Emergency Assistance Payments.

Disaster and emergency assistance payments, whether in cash or in-kind, regardless of the date of receipt, and any interest earned from such payments, shall be exempt and shall not be included in the share of cost computation. This exemption applies only to such payments received from federal, state, and local government agencies, or disaster assistance organizations.

50536. Payments to Victims of the National Socialist Persecution.

(a) Payments received from the Federal Republic of Germany (German Reparations Payments) pursuant to the federal law on the Compensation of Victims of the National Socialist Persecution (Federal Compensation Law) as enacted on June 29, 1956 shall be exempt as income in the month received.

(b) Interest earned on German Reparations Payments shall not be exempt and shall be considered countable unearned income in the month received.

50537. Federal Payments to Indians and Alaskan Natives -Income.

(a) Payments made to Indians under Public Law 90-507 shall be considered personal property rather than income to the extent specified in Section 50445.

(b) Per capita payments made to Indians under Section 6 of Public Law 87-775 and Public Law 92-254 shall be exempt.

(c) Per capita payments distributed pursuant to any judgment of the Indian Claims Commission or the Court of Claims in favor of any Indian Tribe are exempt.

(d) Payments made to Alaskan Natives under the Alaskan Native Claims Settlement Act are exempt. Income obtained from stock investments under the Act is not exempt.

(e) Receipts derived from lands held in trust and distributed by the federal government to members of the following Indian tribes are exempt:

(1) Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.

(2) Blackfeet Tribe, Blackfeet, Montana.

(3) Cherokee Nation of Oklahoma, Oklahoma.

(4) Cheyenne River Sioux Tribe, Cheyenne River, South Dakota.

(5) Crow Creek Sioux Tribe, Crow Creek, South Dakota.

(6) Lower Brule Sioux Tribe, Lower Brule, South Dakota.

(7) Devil's Lake Sioux Tribe, Fort Totten, North Dakota.

(8) Fort Belknap Indian Community, Fort Belknap, Montana.

(9) Assinboine and Sioux Tribes, Fort Peck, Montana.

(10) Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Lac Courte and Oreilles, Wisconsin.

(11) Keweenaw Bay Indian Community, L'Anse, Michigan.

(12) Minnesota Chippewa Tribe, White Earth, Minnesota.

(13) Navajo Tribe, Navajo, New Mexico.

(14) Oglala Sioux Tribe, Pine Ridge, South Dakota.

(15) Rosebud Sioux Tribe, Rosebud, South Dakota.

(16) Shoshone-Bannock Tribe, Fort Hall, Idaho.

(17) Standing Rock Sioux Tribe, Standing Rock, North and South Dakota.

(18) Seminole Indians, Florida.

(19) Pueblos of Zia and Jemez, New Mexico.

(20) Stockbridge Munsee Indian Community, Wisconsin.

(21) Burns Indian Colony, Oregon.

50538. VISTA Payments.

Payments made under the Domestic Volunteer Services Act of 1973 to VISTA volunteers are exempt.

50539. Job Training Partnership Act (JTPA) Payments.

(a) All earnings of a child which are derived from participation in JTPA programs shall be exempt for up to six months per calendar year. Other JTPA payments made to a child shall be exempt at all times.

(b) Payments, other than earnings, to an adult which are derived from participation in JTPA programs shall be exempt to the extent that the payment reimbursements do not exceed the adult's actual training expenses.

50540. Executive Volunteer Programs.

Payments for supportive services or reimbursement of out-of-pocket expenses made to persons serving in the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE) pursuant to Section 418 of Public Law 93- 113 are exempt.

50541. Senior Citizen Volunteer Programs.

Compensation received by beneficiaries who are 60 years of age or older, for volunteer services performed under the Retired Senior Volunteer program, the Foster Grandparents program or the Older Americans Community Service program of the National Older Americans Act, shall be exempt.

50542. Irregular or Infrequent Income.

(a) The first \$60 of casual or inconsequential unearned income per calendar quarter shall be exempt if either of the following conditions are met.

(1) The income is received not more than twice per quarter.

(2) The income cannot be reasonably anticipated.

(b) Earned income not exceeding \$30 per calendar quarter shall be exempt if either of the following conditions are met:

(1) The income is received not more than twice per quarter.

(2) The income cannot be reasonably anticipated.

50543. Student Exemption.

(a) All earned income, including earnings from JTPA after the six months' exemption pursuant to Section 50539 has expired, of an AFDC-MN or MI child shall be exempt if the child is either of the following:

(1) A full-time student.

(2) A part-time student with a school schedule that is equal to at least one-half of a full-time curriculum, and the child is not employed full-time.

(b) For purposes of this exemption the following definitions apply:

(1) School attendance means enrollment and attendance in a school, college, university, or in a course of vocational or technical training designed to fit the child for gainful employment and includes participation in the Job Corps program under the Economic Opportunity Act.

(2) Full-time student means a student who has a school schedule equal to a full-time curriculum, as defined by the school attended.

(3) Part-time employment means employment for less than 173 hours per month.

(c) The student exemption shall also apply to full or part-time earnings between school terms or during vacation periods, if the child plans to continue school attendance during the next term or when the vacation period ends.

50543.5. Earned Income Tax Credit.

(a) The actual Earned Income Tax Credit (EITC) payment shall be exempt as income whether received as a tax refund or an advance payment.

50544. Earnings of Children Under Age 14.

Earnings of children under 14 years of age shall be exempt.

50545. Deductions from Income.

The deductions specified in Sections 50547 through 50555.2 shall be deducted from nonexempt income in the sequence presented in these regulations to determine net nonexempt income.

50547. Educational Expenses.

(a) Documented educational expenses for college or similar training courses which are incurred by a beneficiary shall be deducted either from any income received for educational purposes, as defined in (b), or from any loan received for educational purposes, which is considered as property in accordance with Section 50483(b). Such educational expenses shall be apportioned over the period of time they are intended to cover to determine the monthly deduction. Documented expenses incurred by the beneficiary include any of the following items or services necessary for school attendance:

(1) Tuition.

(2) Books.

(3) Fees.

(4) Equipment and supplies.

(5) Special clothing needs.

(6) Child care services.

(7) Costs of transportation to and from school based on the mode most economically available and feasible in the particular circumstances. If it is determined that personal car usage meets these criteria, all actual transportation costs will be prorated based on the percentage of miles driven to and from school to total miles driven each month. Allowable transportation costs include, but are not limited to, car payments, car insurance and registration, and gasoline.

(b) Income for educational purposes includes, but is not limited to:

(1) Exempt student loans, grants or fellowships, as identified in Section 50533.

(2) Nonexempt student loans, grants or fellowships which do not require repayment.

(3) Social Security and Veteran's Administration payments to a child attending school which are based on a deceased or disabled parent's entitlement.

(4) Veterans Educational Assistance program payments (GI Bill).

(c) The beneficiary educational expenses shall first be deducted from the totally exempt loans or grants identified in Section 50533. Any remaining educational expenses shall next be deducted from other loans for educational purposes, that are considered property in accordance with Section 50483(b), and finally from other income received for educational purposes.

50549. Deductions from Income -MFBUs Which Include Aged, Blind or Disabled MN Persons.

The deductions in Section 50549.1 through 50551.6 shall be subtracted from nonexempt income of MFBUs which include aged, blind or disabled MN persons. These deductions are applied only if a member of the MFBU applies and is found eligible as aged, blind or disabled. Each deduction shall apply only to the income specified in the section which defines that deduction.

50549.1. Support Payment from an Absent Parent.

One-third of any payment made by an absent parent for the support of a disabled or blind child shall be deducted from the total payment.

50549.2. Any Income Deduction -Unearned Income.

(a) Twenty dollars shall be deducted from the combined nonexempt unearned income of all aged, blind or disabled MN persons and the spouse or parents of these persons.

(b) That portion of the allowable \$20 deduction which is in excess of the combined nonexempt unearned income shall be subtracted from the combined nonexempt earned income in accordance with Section 50551.2.

(c) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to January 1, 1977.

50549.3. Guardian and Conservator Fees.

(a) Reasonable court approved guardian/conservator fees shall be allowed as a deduction to the unearned income of an aged, blind, or disabled medically needy person if all of the following conditions are met:

(1) The fees are paid to a court-appointed guardian or conservator of an individual who has been declared by a court to be substantially unable to manage his/her own financial resources and then only to the extent the fees are actually owed in the month in which the payment is made.

(2) A court-appointed guardian or conservator is required by the entity paying the unearned income as a condition of rendering payment to incompetent persons.

(3) The guardian or conservator provides a signed statement from the entity making such payment verifying the requirement set forth in (a)(2).

(b) Payments rendered by the Social Security Administration or other entity to incompetent persons which may be made to a representative payee or other similar individual regardless of guardian/conservator status, shall not be considered to meet the conditions specified in subsection (a)(2).

(c) When the conditions set forth in subparagraph (a) are not met, the unearned income of an aged, blind, or disabled medically needy person which is used to pay reasonable or court ordered guardian/conservator fees shall be considered available in accordance with section 50513.

50551. Student Deduction.

(a) A maximum of \$1,620 per year shall be deducted from the nonexempt earned income of a blind or disabled person who is all of the following:

(1) Under age 22.

(2) Not now married.

(3) Not a parent.

(4) Enrolled or will be enrolled in school for at least eight hours a week during one month of either the following:

(A) Current calendar quarter.

(B) Next calendar quarter.

50551.1. Thirty Dollars Plus One-Third -MFBUS Which Include Aged, Blind or Disabled MN Persons.

(a) The first \$30 plus one-third of the remainder shall be deducted from the nonexempt earned income of an AFDC-MN or MI person, if the person meets all of the following:

(1) Is the spouse or parent of an aged, blind or disabled MN person.

(2) Was eligible for and receiving an AFDC cash grant, as specified in (b) from any state, in one of the four months immediately prior to the month in which the deduction will be applied.

(3) Did not receive the \$30 plus one-third deduction in any AFDC cash family budget unit for four consecutive months without an intervening twelve consecutive month period when he/she was not an AFDC recipient.

(b) A person is considered to have been receiving an AFDC cash grant if that person meets any of the following conditions:

(1) Was receiving an AFDC money payment.

(2) Was not receiving an AFDC money payment due to the adjustment of an overpayment.

(c) When the beneficiary has received the \$30 plus one-third deduction in any MFBU or AFDC Assistance Unit for four consecutive months as provided in (a) above, he/she shall be eligible for a \$30 disregard for a period of eight consecutive months immediately following the end of the four consecutive months.

(d) If for any reason the beneficiary does not receive the \$30 deduction in a month that month shall nonetheless count as one of the eight consecutive months.

(e) When the additional eight consecutive month period has expired, a beneficiary shall not be entitled to receive either the \$30 plus one-third or the \$30 deduction again until he/she has not received AFDC for twelve consecutive months.

(f) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to October 1, 1984.

50551.2. Any Income Deduction -Earned Income.

(a) That portion of the income deduction specified in Section 50549.2 which is in excess of the nonexempt unearned income shall be subtracted from the combined nonexempt earned income of aged, blind or disabled MN persons and the spouse or parents of these persons.

(b) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to January 1, 1977.

50551.3. Sixty-Five Plus One-Half.

(a) The first \$65 plus one-half of the remainder shall be deducted from the combined nonexempt earned income of all aged, blind or disabled MN persons and the spouse or parents of these persons.

(b) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to January 1, 1977.

50551.4. Work Expenses of the Blind.

In addition to the deduction in Section 50551.3 the actual cost of work related expenses shall be deducted from the nonexempt earned income of a blind person.

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50551.5. Income Necessary to Achieve Self-Support.

(a) Nonexempt earned or unearned income of a blind or disabled person shall be deducted, if such income is needed to implement a plan of self-support which meets all of the following criteria:

(1) Is in writing.

(2) Was initiated and approved while the person was receiving SSI/SSP.

(3) Has not been subsequently abandoned.

50551.6. Cost of In-Home Supportive Services -ABD-MN and SGA Disabled.

(a) The amount actually paid for in-home supportive services provided to any ABD-MN person, or to a SGA-disabled person as defined in Section 50223(a)(2) shall be deducted from the combined nonexempt income of the SGA-disabled or ABD-MN person and the responsible relative, except as limited by (b), (c) and (d).

(b) The cost of in-home supportive services (IHSS) shall be a deduction only when all of the following conditions are met:

(1) The services are provided by a person other than a family member living in the home.

(2) The services have been determined to be necessary pursuant to an IHSS needs assessment described in Section 50169(b), and:

(3) The costs for these services have been reduced by any veterans benefit designated as an Aid and Attendance payment.

(c) In-home supportive services means those services which may be provided under the IHSS program.

(d) For ABD-MN persons, the provisions of this section shall be limited to persons who, without in-home supportive services, would require 24-hour-a-day care in a health facility or community care facility as evidenced by a statement signed by a physician.

50553. Deductions from Earned Income -AFDC-MN, MI or Ineligible Members of the MFBU.

(a) The deductions specified in Sections 50553.1 through 50553.5 shall be subtracted in sequence from the nonexempt gross earned income of each AFDC-MN or MI persons, or persons who are ineligible members of the MFBU, except as specified in (b).

(b) An AFDC-MN or MI person, or an ineligible member of the MFBU, who is included in the same MFBU as the person's aged, blind or disabled MN spouse or child shall not receive the deductions specified in Sections 50553.1 through 50553.5.

50553.1. Deduction for Work Expenses.

(a) Ninety dollars for mandatory deductions and work related expenses shall be deducted from the earned income of each AFDC-MN and MI person.

(b) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to October 1, 1989.

50553.2. Deduction for Dependent Care.

50553.3. Thirty Dollars Plus One-Third.

(a) Thirty dollars of nonexempt earned income of each AFDC-MN or MI person, plus one-third of the remainder, shall be deducted if the person who is earning the income meets both of the following conditions:

(1) Was eligible for and receiving an AFDC cash grant, as specified in (b), from any state in one of the four months immediately prior to the month in which the deduction will be applied.

(2) Did not receive the \$30 plus one-third deduction in any AFDC cash family budget unit for four consecutive months without an intervening twelve consecutive month period when he/she was not an AFDC recipient.

(b) A person is considered to have been receiving an AFDC cash grant if that person meets any of the following conditions:

(1) Was receiving an AFDC money payment.

(2) Was not receiving an AFDC payment due to the adjustment of an overpayment.

(c) When the beneficiary has received the \$30 plus one-third deduction in any MFBU or AFDC Assistant Unit for four consecutive months as provided in (a) above, he/she shall be eligible for a \$30 disregard for a period of eight consecutive months immediately following the end of the four consecutive months.

(d) If for any reason the beneficiary does not receive the \$30 deduction in a month that month shall nonetheless count as one of the eight consecutive months.

(e) When the additional eight consecutive month period has expired, a beneficiary shall not be entitled to receive either the \$30 plus one-third or the \$30 deduction again until he/she has not received AFDC for twelve consecutive months.

(f) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to October 1, 1984.

50553.5. Deduction for Dependent Care.

(a) The amount as determined in accordance with (b) shall be deducted from the remaining earned income of an AFDC-MN or MI person when both of the following conditions exist:

(1) The person has reasonable and necessary costs of obtaining child care for a child in the MFBU or care for an incapacitated person in the MFBU.

(2) The county department determines that adequate dependent care cannot be provided by another member of the MFBU.

(b) The amount deducted in accordance with (a) shall be the actual amount paid as limited by the following:

(1) A maximum of \$200 per child under two years of age.

(2) A maximum of \$175 per child two years of age or older.

(3) A maximum of \$175 per incapacitated person.

(c) This deduction shall also apply when the care is provided by a member of the MFBU, other than a spouse or parent, who terminated employment specifically to provide the necessary care.

(d) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to October 1, 1989.

50554. Court Ordered Alimony or Child Support.

(a) Court ordered alimony or child support, or child support paid pursuant to an agreement with a district attorney, shall be deducted from the income of an AFDC-MN or MI beneficiary when it is actually paid by that beneficiary.

(b) The amount deducted shall be the lesser of the amount:

(1) Actually paid.

(2) Specified in the court order or agreement with a district attorney.

50554.5. Child/Spousal Support Received by AFDC-MN and MI Family Members.

(a) Fifty dollars per month shall be deducted from the child/spousal support received by AFDC-MN and MI family members, whether provided voluntarily or by court order, when received and due in the current month.

(b) Fifty dollar for each month shall be deducted from child support received by AFDC-MN and MI family members for past months if both of the following conditions are met:

(1) The payments for past months are received by the family member in the current month.

(2) The payments were made by the absent parent in the month the payment was due.

(c) Child support payments shall be considered to meet the conditions described in (b) only in cases where the absent parent makes payment as described and required in a court order, agreement with the district attorney, voluntary payment schedule, or other such document which establishes a duty to pay child support and includes but is not limited to cases where one of the following conditions is met:

(1) The agreement or court order specifies a payment schedule which requires annual, semi-annual, quarterly or other multiple month payments for reasons other than payment of past due amounts.

(2) Payment is made but not received due to circumstances beyond the control of both the absent parent and the AFDC-MN or MI family member. Such circumstances include, but are not limited to the following:

(A) Payment is made timely to the district attorney or court and not passed on to the AFDC-MN or MI person until a subsequent month.

(B) Payment for each month is made through payroll deduction or garnishment of wages and is not forwarded to the AFDC-MN or MI person until the subsequent month.

(d) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to October 1, 1989.

50555. Deductions from Any Income -All MN or MI Programs.

The deductions specified in Sections 50555.1 through 50555.2 shall be subtracted from any nonexempt income that remains after the application of all preceding exemptions and deductions.

50555.1. Income of an MN or MI Person Used to Determine Public Assistance Eligibility of Another Family Member.

(a) That portion of the income of an MN or MI person or a person responsible for the MFBU which is counted in determining the eligibility of a spouse, parent or child as a PA or Other PA recipient shall be deducted.

(b) Income of a stepparent and the value of income in kind provided by a stepparent which is counted in determining the eligibility of a spouse or stepchildren as PA or Other PA recipients shall be deducted.

50555.2. Health Insurance Premiums.

(a) Health insurance premiums shall be deducted if paid by and purchased for any person in the family.

(b) Health insurance payments paid less often than monthly shall be averaged on a monthly basis.

(c) The premium for Part B Medicare shall be deducted for those months in which the beneficiary actually makes the payment, notwithstanding Section 50773(b).

50555.3. Court Ordered Child Support.

50555.4. Special Deduction for Aged, Blind or Disabled MN.

50557. Treatment of Income.

(a) The following income shall be considered in determining the share of cost of a person or family:

(1) Net nonexempt income of all persons included in the MFBU in accordance with Section 50371 through 50381.

(2) Income specified in Sections 50558 through 50564.

(b) That portion of the income of persons excluded from the MFBU as PA or Other PA recipients which was used to determine their PA or Other PA eligibility shall not be considered. All income of persons eligible for four months or nine months continuing eligibility shall be considered.

50558. Income of Persons Excluded from the MFBU.

(a) The income of children excluded from the MFBU shall not be counted in determining the share of cost for the MFBU.

(b) In addition to their own income, children excluded from the MFBU shall be allocated an amount to meet their combined need, which shall be determined as follows, unless the condition of (c) is met:

(1) Determine the maintenance need for the MFBU with the children included.

(2) Determine the maintenance need for the MFBU with the children excluded.

(3) Subtract the amount determined in (2) from the amount determined in (1).

(4) Subtract the net nonexempt income of all excluded children from the amount determined in (3). This is the amount that shall be allocated to the children excluded from the MFBU.

(c) The income of the members of a stepparent unit who are excluded from the MFBU shall be treated in accordance with Sections 50559 and 50561.

50559. Income Deemed Available from the Stepparent.

(a) If there is a stepparent living in the home and only the parent and the parent's separate children are included in the MFBU, the income deemed available from the stepparent shall be determined as follows:

(1) Combine the stepparent's nonexempt unearned income with the stepparent's gross earned income minus the deduction for work expenses specified in Section 50553.1.

(2) Deduct, from the amount determined in (1), the following amounts:

(A) Amounts actually paid by the stepparent to persons not living in the home but who are claimed as dependents for purposes of determining the stepparent's Federal personal income tax liability.

(B) Voluntary or court-ordered child support and alimony payments made by the stepparent to persons not living in the home.

(C) The maintenance need for the stepparent unit which includes the:

1. Stepparent.
2. Mutual children.
3. Stepparent's children.

(3) The remainder, if any, is income available to the MFBU.

50561. Treatment -Stepparent Cases.

(a) If there is a stepparent living in the home, and only the parent and the parent's separate children are included in the MFBU, the income considered in determining the share of cost of those children shall be:

(1) The income of the children.

(2) The income of the parent.

(3) The income available from the stepparent as determined in accordance with Section 50559.

50563. Treatment of Income -Aged, Blind or Disabled MN Person or Person's Spouse in LTC or Board and Care.

(a) When an aged, blind or disabled MN person or the spouse of that person is in LTC or board and care and that person has a spouse and/or children who are not Public Assistance recipients, the income of that person shall be treated in the following manner, beginning the first of the month the spouses, or the parent and children, are in separate MFBUs:

(1) The net nonexempt income of the person in LTC or board and care which is in excess of the appropriate maintenance need for that person in accordance with the provisions of Article 11 of this chapter shall be allocated to the spouse and/or children as follows:

(A) When the family is applying for Medi-Cal, determine the maintenance need for the spouse and/or children other than any children excluded from the MFBU.

(B) When only the person in LTC or board and care is applying for Medi-Cal, determine the maintenance need for the spouse and/or all the children.

(C) Subtract the net nonexempt income of the spouse and/or children, other than the excluded children, from the amount determined in (A) or (B). This is the amount that shall be allocated to the spouse and/or children from the net nonexempt income of the MN person in LTC or board and care which is in excess of the maintenance need as determined in (1).

(2) If the person in LTC or board and care is a stepparent:

(A) The stepchildren shall be treated as natural children of the person in LTC or board and care.

(B) The allocation shall be determined in accordance with (1).

(b) In no event shall any income be allocated from the family members living at home to the person in long-term care or board and care.

50564. Treatment of Income -Persons No Longer Receiving Title XVI Due to a Cost of Living Increase in OASDI Benefits Under Title II.

(a) The provisions of this section shall be applied to any MFBU which includes an aged, blind or disabled person who meets all of the following conditions:

(1) Was eligible for and receiving Title XVI benefits in any month since April 1977.

(2) Was in receipt of OASDI Title II benefits and received a cost of living increase since April 1977.

(3) Has not been entitled to Title XVI benefits in any month since receipt of a Title II cost of living increase, including the month of receipt of the Title II increase.

(4) Would be entitled to Title XVI benefits, as determined in accordance with Department procedures, if the Title II cost of living increases received after Title XVI ineligibility occurred are disregarded. Increases to be disregarded include the increase which rendered Title XVI ineligibility.

(b) The aged, blind or disabled person in the MFBU who meets all of the conditions specified in (a) shall be eligible for Medi-Cal as a Title II Disregard person with no share of cost.

(c) The net nonexempt income of the Title II Disregard person shall be considered when determining the share of cost for the remaining family members.

(d) The Title II Disregard person shall be considered a member of the MFBU when determining the maintenance need in accordance with Section 50601.

(e) The share of cost for the MFBU shall be processed in accordance with Section 50660.

(f) The provisions of this regulation also apply to eligibility determinations or redeterminations made retroactively to September 1, 1978.

50565. Projection of Anticipated Income.

50567. Adjustment for Decreases in Income.

50569. County Failure to Change Income.

50570. Income Determination and Limit for the Qualified Medicare Beneficiary (QMB) or the Specified Low-Income Medicare Beneficiary (SLMB).

(a) To determine the eligibility of an adult, couple, or child for the QMB program, net nonexempt income shall not exceed 90% of the official poverty level in 1990, 100% of the official poverty level in 1991 and thereafter, as defined by the federal Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981. Income attributable to a Title II cost of living adjustment is excluded according to federal law.

(b) To determine the eligibility of an adult, couple, or child for the SLMB program, net nonexempt income shall not exceed 110% in 1993 and 1994, rising to 120% in 1995 and ongoing of the official poverty level in each year as defined by the federal Office of Management and Budget in accordance with Section 4501 of the Omnibus Budget Reconciliation Act of 1990. Income attributable to a Title II cost of living adjustment is excluded according to federal law.

(c) Net nonexempt income shall first be determined in accordance with all the applicable provisions of Article 8 and Article 10, except that the health insurance premiums as specified under Section 50555.2 are not allowed and the deduction for IRWE as defined in Section 50045.1 is allowed.

(d) If ineligibility results from the computation under (c) above, the net nonexempt income then will be determined following SSI methodology specified in Section 1612, Title XVI of the federal Social Security Act.

50571. Income Determination and Limit for the Qualified Disabled and Working Individual (QDWI).

(a) To qualify for the QDWI Program, the net nonexempt income of a QDWI applicant/beneficiary cannot exceed 200 percent of the federal poverty level.

(b) Net nonexempt income shall be determined following SSI methodology specified in Section 1612, Title XVI of the federal Social Security Act.